REMARKS

Claims 1-24 are pending in the application.

While Applicant believes that all of the claims are patentable over the cited references of record, to speed prosecution, claims 23 and 24 are amended to define more clearly and particularly the features of the claimed invention.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1-24 stand rejected on prior art grounds.

Claims 1-4, 12-17, and 22-24 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Gillman (U.S. Publication 2002/0147674).

Claims 5 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gillman in view of Cofino (U.S. Publication No. 2004/0015415).

Claims 6-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gillman in view of Bot Till You Drop, Time Magazine, October 11, 1999, Vol. 154, No. 15.

Claims 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gillman in view of Official Notice.

These rejections are respectfully traversed in view of the following discussion.

I. THE CLAIMED INVENTION

In the illustrative, non-limiting embodiment of the claimed invention, as defined in independent claim 1, is directed to a method for conducting electronic commerce that comprises electronically visiting, by a customer interested in shopping for an item, a preselected comparison shopping site (CompShop), and inquiring about the item and comparative prices thereof, running, by the preselected comparison shopping site, a query on a plurality of electronic stores carrying the item, and asking for a price of the item, the plurality of electronic stores including at least one smartStore, determining by the at least one smartStore that the query is received from the preselected comparison shopping site, and selectively determining, by the smartStore, an offer price of the item and selectively returning one of a static price and a modified price, the modified price resulting from the smartStore learning a best offer price received by the preselected comparison shopping site from the plurality of electronic stores.

Independent claims 22-24 define other exemplary systems and methods which recite somewhat similar features as independent claim 1.

An aspect of the claimed invention as exemplarily defined by independent claims 1 and 22-24 provides that if the customer has accessed a preselected comparison shopping site, **then a smartStore**, which recognizes the price query as originating from the preselected comparison shopping site, **may determine** that a modified price based on competitive prices

and a profit margin is necessary. On the other hand, if the customer has *not* accessed the preselected comparison shopping site, **the smartStore can determine** to return a static, i.e., standard price.

The above operation can be compared to the traditional model of "coupon clipping" or "mail in rebates." Stores, i.e., those stores which are analogous to the smartStore, typically give a special price to customers who bring in coupons, where the coupon represents "shopping" through a medium, for example, a newspaper in which the store has advertised. Bringing in the newspaper coupon is analogous to accessing the preselected comparison shopping site of the invention. However, the stores rely on the fact that there will be many customers who do not clip coupons or who will forget to turn in the mail-in rebates (e.g., see specification, page 3, lines 19-22).

II. THE PRIOR ART REJECTIONS

A. Claims 1-4, 12-17, and 22-24 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Gillman.

For the following reasons, Applicant respectfully submits that the Gillman reference does not disclose or suggest all of the features of claims 1-4, 12-17, and 22-24. Therefore, Applicant respectfully traverses this rejection.

Applicant respectfully submits that the method disclosed by Gillman clearly does not anticipate the claimed invention defined, for example, by claims 1-4, 12-17, and 22-24, for several reasons.

First, it is noted that Gillman relates to an electronic buying system in which both the users and the suppliers must register to use the reverse auction system (e.g., see paragraphs [0012], [0030], [0057]-[0069]). In Gillman, both the buyers and suppliers access the reverse auction system through a dedicated home page for the reverse auction.

Thus, in Gillman, both the buyers and suppliers already know that they are participating in a reverse auction, since they registered to be a part of the reverse auction system, and accessed the reverse auction through a dedicated home page. Indeed, by participating in the reverse auction through the dedicated home page, no request for quotes (RFQ's) from non-comparison shopping sites would be received by the supplier through the dedicated home page.

Hence, in Gillman, there is no need for the supplier to make any kind of affirmative determination as to whether or not the reverse auction system is a comparison shopping site, or a non-comparison shopping site, as recited in the claimed invention. Instead, in Gillman, the supplier has registered to be part of the reverse auction and has visited their dedicated home page to participate in the reverse auction and also knows that only RFQ's from the reverse auction will be received via the dedicated home page.

The method according to the claimed invention, on the other hand, does not involve a dedicated reverse auction system in which the buyers and suppliers must be registered or in which the supplier already knows that only queries from the reverse auction site will be received.

Instead, the claimed method recites that a preselected comparison shopping site runs a query on a plurality of electronic stores carrying an item and asks for a price of the item. A queried smartStore then determines that the query is received from the preselected comparison shopping site and not from a non-comparison shopping site, and selectively determines an offer price based on such a determination.

That is, in the claimed invention, the smartStores which have been queried can determine whether the received query is from a comparison shopping site or from a non-comparison shopping site and adjust their offer accordingly, as disclosed in the present application and recited in the claims.

For example, independent claim 1 recites, *inter alia*, a method for conducting electronic commerce, including:

> *electronically visiting, by a customer interested in shopping for an item, a preselected comparison shopping site (CompShop), and inquiring about the item and comparative prices thereof;*
>
> *running, by the preselected comparison shopping site, a query on a plurality of electronic stores carrying the item, and asking for a price of the item, the plurality of electronic stores including at least one smartStore;*
>
> *determining by the at least one smartStore that the query is received from the preselected comparison shopping site; and*

> *selectively determining, by the smartStore, an offer price of the item and selectively returning one of a static price and a modified price,*
>
> *wherein the modified price and selectively returning, by the smartStore, of said one of the static price and the modified price result from the smartStore learning a best offer price received by the preselected comparison shopping site from the plurality of electronic stores* (emphasis added).

That is, the present invention provides a novel and unobvious method and system wherein all participating sites (some of them **smartStores** and others not) compete by offering lower prices based upon the fact that there is a comparison shopping site that is making them participate in a dynamic pricing competition.

In important aspect of the invention is that the participating sites (not the comparison shopping site) offer competitive prices based on the determination that the query is received from the preselected comparison shopping site (i.e., that they are participating in a system of comparative shopping), and not from a non-comparative shopping site.

Because the smartStore determines that the request for price comes from the comparison shopping site, and not from non-comparison shopping site, the smartStore determines (e.g., knows) that it is participating in a system of comparative shopping and the smartStore may offer a better price.

In other words, according to the exemplary aspects of the present invention, if the customer has accessed a preselected comparison shopping site, **then a smartStore**, which recognizes the price query as originating from the preselected comparison shopping site (and

not from a non-comparison shopping site), **may determine** that a modified price based on competitive prices and a profit margin is necessary. On the other hand, if the customer has *not* accessed the preselected comparison shopping site, **the smartStore** can recognize the price query as originating from a non-comparison shopping site (and not from a non-comparison shopping site) and return a static, i.e., standard price.

Independent claims 23 and 24 recite somewhat similar features as independent claim 1. However, while Applicant believes that all of the claims are patentable over the cited references of record, to speed prosecution, claims 23 and 24 are amended to define more clearly and particularly the features of the claimed invention.

For the foregoing reasons, Applicant respectfully submits that claims 1-4, 12-17, and 22-24 clearly are not disclosed or suggested by Gillman.

Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw this rejection and permit these claims to pass to immediate allowance.

B. Claims 5 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gillman in view of Cofino.

For the following reasons, Applicants respectfully traverse this rejection.

Cofino is (and was at the time of the invention) commonly assigned to International Business Machines Corporation, as evidenced, for example, on the face of the U.S. Patent Application Publication to Cofino. Therefore, the Cofino reference should be removed as

prior art under 35 U.S.C. § 103(c) and the rejection of claims 5 and 21 under 35 U.S.C. § 103(a) over Cofino should be withdrawn.

Applicant notes that the parent application (U.S. Application Serial No. 09/556,722) from which Cofino claims priority under 35 U.S.C. § 119 was filed on April 21, 2000, which is prior to the October 2, 2000 filing date of the present application, and published on January 22, 2004, which is after the October 2, 2000 filing date of the present application. Therefore, Cofino is available as prior art only under 35 U.S.C. § 102(e).

Thus, Applicant submits that Cofino is (and was at the time of the invention) commonly assigned to IBM Corporation, and therefore, can removed as prior art under 35 U.S.C. § 103(c).

Therefore, Applicants respectfully submit that the rejection of claims 5 and 21 under 35 U.S.C. § 103(a) over Gillman and Cofino should be withdrawn and that claims 5 and 21 should be passed to immediate allowance.

C. Claims 6-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gillman in view of Bot Till You Drop, Time Magazine, October 11, 1999, Vol. 154, No. 15.

Applicant submits that claims 6-11 are patentable over Gillman and Bot by virtue of their dependency from claim 1. Applicant also submits that Bot does not make up for the deficiencies of Gillman, as set forth above.

For the foregoing reasons, Gillman and Bot, either individually or in combination, do not disclose or suggest all of the features of the claimed invention. Therefore, the Examiner is requested to reconsider and withdraw this rejection and to permit claims 6-11 to pass to immediate allowance.

D. Claims 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gillman in view of Official Notice.

Applicant submits that claims 18-20 are patentable over Gillman and Official Notice by virtue of their dependency from claim 1. Applicant also submits that Official Notice does not make up for the deficiencies of Gillman, as set forth above.

For the foregoing reasons, Gillman and Official Notice, either individually or in combination, do not disclose or suggest all of the features of the claimed invention. Therefore, the Examiner is requested to reconsider and withdraw this rejection and to permit claims 18-20 to pass to immediate allowance.

In view of all of the foregoing, Appellants submit that all of the pending claims are patentable over the prior art of record.

III. CONCLUSION

In view of the foregoing, Applicant submits that claims 1-24, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in

condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Assignee's Deposit Account No. 09-0441.

Respectfully Submitted,

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CERTIFICATE OF TRANSMISSION

I certify that I transmitted via facsimile to (571) 273-8300 the enclosed Amendment under 37 C.F.R. § 1.111 to Examiner Yogesh C. Garg, Group Art Unit 3625, on February 16, 2006.

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